



SP01-274

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Peter G. Hebgen, et al.

Serial No: 09/965,406

Filed: 9/26/2001

For: L-BAND DISPERSION
COMPENSATING FIBER AND
TRANSMISSION SYSTEM
INCLUDING SAME

Examiner: K. Suchecki

Group Art Unit: 2882

**TERMINAL DISCLAIMER
PURSUANT TO 35 U.S.C. § 253 AND 37 C.F.R. § 1.321(a)**

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

I, Randall S. Wayland, an attorney/agent of record for the above-captioned application, hereby declare that:

To the best of my knowledge and belief, Corning Incorporated, duly organized under the laws of the State of New York and having its principal place of business at Riverfront Plaza, Corning, New York 14831, is the only assignee of the entire right, title and interest in and to the above-captioned application, Serial No. 09/965,406, filed 9/26/2001, for L-BAND DISPERSION COMPENSATING FIBER AND TRANSMISSION SYSTEM INCLUDING SAME, in the name of Corning Incorporated, as indicated by assignment(s) duly recorded in the United States Patent and Trademark Office at Reel No. 012225, Frame No. 0641 and is and at all times was the only assignee of second application, Serial No. 10/238,100, filed September 9, 2002, for L-BAND DISPERSION COMPENSATING FIBER AND TRANSMISSION SYSTEM INCLUDING SAME in the name of Corning Incorporated, as

indicated by assignment(s) duly recorded in the U.S. Patent and Trademark Office at Reel No. 013285, Frame No. 0679. I further represent that I have reviewed the evidentiary documents establishing the assignments and certify, that to the best of my knowledge and belief, title to the above-identified second application are in Corning Incorporated.

To obviate a double patenting rejection, Petitioner, Corning Incorporated, hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-captioned application, Serial No. 09/965,406, which would extend beyond the expiration date of the full statutory term, including any extensions of the original term, including those defined in 35 U.S.C. § 154 to § 156 and § 173, as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second application, Serial No. 10/238,100, filed on September 9, 2002. As used herein, the term "extension" includes the increase in the seventeen year term of patents under the Uruguay Round Agreement Act, as well as other extensions granted in the future. Petitioner hereby further agrees that any patent so granted on the above-captioned application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on the pending second application, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any part of any patent granted on the above-captioned application Serial No. 09/965,406, prior to the end of the full statutory term of a patent granted on the second application, Serial No. 10/238,100, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that the later patent expires prior to its full statutory term by reason of, for example, failure to pay a maintenance fee, a holding of unenforceability, a holding of invalidity, the filing of a statutory disclaimer in whole or in part under 35 U.S.C. § 253 and 37 C.F.R. § 1.321(a), or cancellation of all claims by a

reexamination certificate.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$110.00 is authorized by Corning Incorporated to be charged as well as any additional fees due in connection with the filing of this response to our Deposit Account No. 03-3325. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee Corning Incorporated.

I hereby declare that all statements made of my own knowledge and belief are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: _____

10/10/03

By: _____

Randall S. Wayland

Reg. No.:36,303

Corning Incorporated

SP-TI-3-1

Corning, NY 14831

607-974-0463

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents, Alexandria, VA 22313-1450 on

10/10/03
Date of Deposit

Randall S. Wayland
Signature